

## Message Text

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60

ORIGIN OES-05

INFO OCT-01 EUR-12 ISO-00 COME-00 EB-07 SAJ-01 L-02 IO-10

LOC-01 PA-02 PRS-01 USIA-15 ERDA-07 NSF-02 NASA-02

CIAE-00 INR-07 NSAE-00 /075 R

DRAFTED BY OES/SCI/SEP:WAROOT:GEM

APPROVED BY OES/SCI/SEP:WAROOT

COMMERCE/PATENT OFFICE:SENGLE

EUR/SOV:RPARDON

EB/CBA/BP:HWINTER

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R 211755Z APR 75

FM SECSTATE WASHDC

TO AMEMBASSY MOSCOW

UNCLAS STATE 090822

E.O. 11652: N/A

TAGS: TGEN, UR

SUBJECT: S&T AGREEMENT: INTELLECTUAL PROPERTY

REF: STATE 85937

FOR SCICOUNS

JOHNSON LETTER TO ARTEM'YEV BEING POUCHED. MAIN  
SUBSTANTIVE POINTS OF LETTER AND COMPLETE TEXT OF US  
DRAFT IMPLEMENTING PROCEDURES REPEATED BELOW FOR IMMEDIATE  
EMBASSY TRANSMITTAL TO SOVIETS SO THEY CAN HAVE MORE TIME  
TO REVIEW US PROPOSAL IN PREPARATION FOR MAY 20-22 MEETING:  
AFTER STUDYING DOCUMENT RECEIVED WITH ARTEM'YEV SEPT. 3  
LETTER, US SIDE OF WG CONCLUDED AGREEMENT COULD NOT BE  
REACHED ON STATEMENTS AS PROPOSED BUT PROBLEMS AT HAND  
COULD BE RESOLVED BY LESS DETAILED STATEMENTS. WE  
BELIEVE FOLLOWING DRAFT IMPLEMENTING PROCEDURES  
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ACCOMMODATE NEED FOR GUIDANCE AT THIS TIME:

US-USSR JOINT WORKING GROUP ON INTELLECTUAL PROPERTY,  
TAKING INTO ACCOUNT STATEMENT OF GUIDING PRINCIPLES ON

INTELLECTUAL PROPERTY AND TERMS OF REFERENCE APPROVED  
NOVEMBER 30, 1973, HAS AGREED TO FOLLOWING IMPLEMENTING  
PROCEDURES FOR USE IN NEGOTIATING INDIVIDUAL COOPERATIVE

ACTIVITIES. INTELLECTUAL PROPERTY PROVISIONS OF  
AGREEMENTS FOR INDIVIDUAL COOPERATIVE ACTIVITIES WILL BE  
NEGOTIATED ON CASE-BY-CASE BASIS, USING AS GUIDELINES  
"STATEMENT OF GUIDING PRINCIPLES ON INTELLECTUAL  
PROPERTY" AND THESE "IMPLEMENTING PROCEDURES" WITH  
UNDERSTANDING THAT THESE GUIDELINES MAY BE MODIFIED  
DURING NEGOTIATIONS WHERE NECESSARY OR DESIRABLE.

1. STATEMENTS GOVERNING INVENTIONS

1.1 INVENTION ORIGINATED AS RESULT OF COOPERATIVE  
ACTIVITIES OF PARTIES SHALL BE REPORTED EXPEDITIOUSLY  
BY INVENTOR(S) IN "INVENTION DISCLOSURE" TO RESIDENT  
WORKING GROUP CHAIRMAN OF THAT ACTIVITY INDICATING DATE  
OF INVENTION DISCLOSURE, INVENTOR'S PERTINENT DATES  
RELATIVE TO INVENTIVE ACTIVITY, AND ALL PERTINENT  
INVENTIVE SUBJECT MATTER.

1.2 DURING EXCHANGE OF SCIENTIFIC AND TECHNICAL  
INFORMATION SOVIET AND AMERICAN PARTIES IN ANY  
COOPERATIVE ACTIVITY SHALL PROCEED ON ASSUMPTION  
INFORMATION RELATING TO "INVENTION DISCLOSURE" MAY BE  
PUBLISHED WORLDWIDE BY EITHER PARTY UPON APPLICATION FOR  
PATENT OR INVENTOR'S CERTIFICATE BEING FILED IN EITHER  
COUNTRY, OR UPON EITHER DECISION NEITHER PARTY INTENDS  
TO FILE APPLICATION FOR PATENT OR INVENTOR'S CERTIFICATE,  
OR EXPIRATION OF TIME PERIOD SET FORTH IN SECTION 1.4,  
WHICHEVER IS EARLIER.

1.3 RESIDENT WORKING GROUP CHAIRMAN OF COOPERATIVE  
ACTIVITY IN WHICH "INVENTION DISCLOSURE" ORIGINATED SHALL,  
IN ANY EVENT, SEND TO NONRESIDENT CHAIRMAN OF WORKING  
GROUP WITHIN THREE (3) MONTHS OF DATE OF RECEIPT OF  
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"INVENTION DISCLOSURE" BY RESIDENT WORKING GROUP  
CHAIRMAN: (A) COPY OF "INVENTION DISCLOSURE" AND (B)  
INFORMATION AS TO WHETHER OR NOT APPLICATION FOR PATENT  
OR INVENTOR'S CERTIFICATE HAS BEEN OR WILL BE FILED AND,  
IF SO, ACTUAL OR INTENDED FILING DATE.

1.4 EACH PARTY SHALL DECIDE WHETHER APPLICATION FOR  
PATENT OR INVENTOR'S CERTIFICATE IS TO BE FILED IN ITS  
OWN COUNTRY. EACH PARTY IS RESPONSIBLE TO ENSURE PROMPT  
TRANSMISSION OF ALL APPROPRIATE PAPERS AND PROPERLY  
EXECUTED DOCUMENTS WHERE NECESSARY FOR FILING OF  
APPLICATION FOR PATENT OR INVENTOR'S CERTIFICATE IN  
OTHER PARTY'S COUNTRY. SUBJECT MATTER OF APPLICATION

MAY BE PUBLISHED BY EITHER PARTY AFTER ANY FILING OR, IN  
ABSENCE OF ANY FILING, AFTER THREE MONTHS FROM RECEIPT OF

INVENTION DISCLOSURE BY NONRESIDENT WORKING GROUP  
CHAIRMAN.

1.5. (A) ABSENT AGREEMENT TO CONTRARY, PARTY IN  
WHOSE COUNTRY INVENTION IS MADE (HEREINAFTER FOR THIS  
SECTION, FIRST PARTY) SHALL HAVE INITIAL OPTION TO  
ACQUIRE ALL RIGHT, TITLE AND INTEREST IN AND TO SUCH  
INVENTIONS IN THIRD COUNTRIES, SUBJECT TO GRANT TO OTHER  
PARTY (HEREINAFTER FOR THIS SECTION, SECOND PARTY) OF  
NONEXCLUSIVE, IRREVOCABLE, ROYALTY-FREE LICENSE WITH  
RIGHT TO GRANT SUBLICENSES FOR SUCH INVENTIONS IN SUCH  
COUNTRIES. IF FIRST PARTY DECLINES TO EXERCISE THIS  
OPTION, SECOND PARTY SHALL HAVE RIGHT TO ACQUIRE RIGHT,  
TITLE AND INTEREST IN SUCH INVENTIONS IN SUCH THIRD  
COUNTRIES. EACH PARTY IS RESPONSIBLE TO ENSURE PROMPT  
TRANSMISSION OF ALL APPROPRIATE PAPERS AND PROPERLY  
EXECUTED DOCUMENTS WHERE NECESSARY FOR OTHER PARTY TO  
FILE APPLICATIONS FOR PATENTS OR INVENTORS' CERTIFICATES  
AND TO ACQUIRE ALL RIGHT, TITLE AND INTEREST IN AND TO  
SUCH INVENTIONS IN THIRD COUNTRIES. EACH PARTY SHALL  
NOTIFY OTHER PARTY OF COUNTRIES WHERE APPLICATION(S) FOR  
PATENTS OR INVENTORS' CERTIFICATES HAVE BEEN FILED,  
STATUS THEREOF, AND INFORMATION RELATING TO ISSUANCE OR  
REJECTION OF APPLICATION(S) FOR PATENTS OR INVENTORS'  
CERTIFICATES IN ANY THIRD COUNTRY PATENT OFFICE AND, IN  
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CASE OF ISSUANCE, SCOPE THEREOF.

1.5. (B) FIRST PARTY SHALL NOTIFY SECOND PARTY  
WITHIN SIX (6) MONTHS FROM DATE OF FILING APPLICATION  
FOR PATENT OR INVENTOR'S CERTIFICATE IN ITS OWN COUNTRY,  
WHETHER OR NOT FIRST PARTY HAS FILED OR INTENDS TO FILE  
FOR AND ACQUIRE ALL RIGHT, TITLE AND INTEREST IN AND TO  
SUCH INVENTIONS IN THIRD COUNTRIES AND IF SO, ACTUAL OR  
INTENDED FILING DATES AND LISTING OF THIRD COUNTRIES  
SELECTED FOR FILING. THEREAFTER SECOND PARTY SHALL HAVE  
RIGHT TO FILE IN ANY THIRD COUNTRY NOT LISTED BY FIRST  
PARTY.

1.6 IF PARTY FILING APPLICATION FOR PATENT DECLINES  
TO MAINTAIN APPLICATION OR RESULTING PATENT IN FORCE IN  
A THIRD COUNTRY, IT SHALL INFORM OTHER PARTY AT LEAST  
THREE (3) MONTHS PRIOR TO EXPIRATION DATE FOR PAYMENT  
OF MAINTENANCE FEES AND SHALL TRANSFER OWNERSHIP OF  
APPLICATION OR RESULTING PATENT TO OTHER PARTY, IF  
REQUESTED, WITH RESERVATION TO PARTY FILING FOR PATENT  
OF NONEXCLUSIVE, IRREVOCABLE, ROYALTY-FREE LICENSE WITH  
RIGHT TO GRANT SUBLICENSES UNDER SUCH INVENTION IN SUCH

COUNTRIES.

1.7 IN SITUATIONS WHERE BOTH PARTIES HAVE LICENSING RIGHTS IN THIRD COUNTRIES, THESE PARTIES MAY AGREE ON LICENSING ARRANGEMENTS.

2. STATEMENTS GOVERNING MATERIALS SUBJECT TO COPYRIGHT

2.1 EACH PARTY SHALL GRANT TO OTHER PARTY ROYALTY-FREE LICENSE TO MAKE COPIES, AND TO MAKE TRANSLATION, OF COPYRIGHTED MATERIALS, WHICH HAVE DIRECT RELATIONSHIP TO COOPERATIVE ACTIVITIES, AND ARE OWNED OR CONTROLLED BY A PARTY AT COMMENCEMENT OF PARTICULAR COOPERATIVE ACTIVITIES OR ACQUIRED BY A PARTY THROUGH RELATED INDEPENDENT CONCURRENT WORK, FOR USE IN THOSE COOPERATIVE ACTIVITIES ONLY.

2.2 IN ABSENCE OF AGREEMENT BY PARTIES NOT TO SEEK COPYRIGHT FOR ANY COPYRIGHTABLE MATERIAL RESULTING FROM UNCLASSIFIED

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COOPERATIVE ACTIVITIES, PARTY IN WHOSE COUNTRY MATERIAL IS CREATED SHALL HAVE FIRST OPTION TO CLAIM COPYRIGHT, SUBJECT TO GRANT OF RIGHTS TO OTHER PARTY AS SPECIFIED IN SECTION 2.5. IF PARTY HAVING FIRST OPTION DECIDES NOT TO CLAIM COPYRIGHT, OTHER PARTY MAY CLAIM COPYRIGHT, SUBJECT TO GRANT OF RIGHTS TO OTHER PARTY AS SPECIFIED IN SECTION 2.5.

2.3 AUTHOR(S) OF COPYRIGHTABLE MATERIAL ORIGINATED AS RESULT OF COOPERATIVE ACTIVITIES OF PARTIES SHALL FORWARD EXPEDITIOUSLY TWO (2) COPIES TO RESIDENT WORKING GROUP CHAIRMAN OF THAT ACTIVITY.

2.4 RESIDENT WORKING GROUP CHAIRMAN OF THAT ACTIVITY SHALL SEND TO NONRESIDENT CHAIRMAN OF WORKING GROUP TWO (2) COPIES OF COPYRIGHTABLE MATERIAL WITHIN THREE (3) MONTHS OF DATE OF RECEIPT FROM AUTHOR(S) WITH STATEMENT INDICATING WHETHER PARTY IN WHOSE COUNTRY MATERIAL IS CREATED INTENDS TO SECURE COPYRIGHT IN SUCH MATERIAL.

2.5 PARTY SECURING COPYRIGHT SHALL ASSIGN TO OTHER PARTY ALL RIGHTS TO SUCH COPYRIGHT IN OTHER PARTY'S COUNTRY. IN ALL OTHER COUNTRIES, PARTY SECURING COPYRIGHT SHALL GRANT ROYALTY-FREE LICENSE TO OTHER PARTY TO MAKE AND PUBLISH COPIES OF COPYRIGHTED MATERIAL AND TO MAKE AND PUBLISH ACCURATE AND FAITHFUL TRANSLATIONS OF COPYRIGHTED MATERIAL.

2.6 IN ORDER TO ASCERTAIN ACCURACY OF PUBLISHED TRANSLATIONS, PARTY MAKING TRANSLATION OF MATERIAL ORIGINALLY PREPARED BY OTHER PARTY SHALL FORWARD TWO

(2) COPIES OF TRANSLATED MATERIAL TO OTHER PARTY BEFORE

PUBLICATION. PARTY ORIGINALLY PREPARING MATERIAL SHALL MAKE ANY SUGGESTIONS FOR CORRECTION OF TRANSLATION WITHIN THREE (3) MONTHS OF RECEIPT OF COPIES OF TRANSLATION. THESE SUGGESTIONS ARE ADVISORY ONLY, BUT THEY SHOULD BE ACCEPTED WHERE FEASIBLE.

3. STATEMENTS GOVERNING INTELLECTUAL PROPERTY  
DISAGREEMENTS  
UNCLASSIFIED

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3.1 DISAGREEMENT ARISING DURING COOPERATIVE ACTIVITY RELATING TO APPLICATION OF STATEMENT OF GUIDING PRINCIPLES ON INTELLECTUAL PROPERTY AND THESE IMPLEMENTING PROCEDURES WILL BE RESOLVED BY NEGOTIATIONS BETWEEN WORKING GROUP CHAIRMEN IN WHOSE ACTIVITY DISAGREEMENT AROSE.

3.2 WORKING GROUP CHAIRMEN OF COOPERATIVE ACTIVITY CAN RESORT TO PROCEDURE OF CONCILIATION BY TURNING TO JOINT WORKING GROUP ON INTELLECTUAL PROPERTY.

3.3 IF DISAGREEMENT ARISES RELATING TO AGREED TO INTELLECTUAL PROPERTY PROVISIONS IN COOPERATIVE ACTIVITY AND CONCILIATION PROCEDURE WAS NOT UNDERTAKEN, OR DID NOT LEAD TO SOLUTION OF DISAGREEMENT, DISAGREEMENT WILL BE RESOLVED BY ARBITRATION BY AN ARBITRATION BOARD OF THREE ARBITRATORS, ONE SELECTED BY EACH OF PARTIES AND THIRD ARBITRATOR SELECTED BY THESE TWO ARBITRATORS AND MUTUALLY ACCEPTABLE TO THEM. DECISION BY MAJORITY OF ARBITRATORS SHALL BE FINAL.

4. STATEMENT GOVERNING FURTHER PROCEDURES

4.1 JOINT WORKING GROUP ON INTELLECTUAL PROPERTY WILL CONTINUE TO WORK OUT FURTHER PROCEDURES TO RESOLVE ISSUES RELATING TO INTELLECTUAL PROPERTY MATTERS WITHIN FRAMEWORK OF STATEMENT OF GUIDING PRINCIPLES ON INTELLECTUAL PROPERTY AND THESE IMPLEMENTING PROCEDURES.  
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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 26 AUG 1999  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** AGREEMENTS, INTELLECTUAL PROPERTY, MEETING DELEGATIONS, SCIENTIFIC COOPERATION  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 21 APR 1975  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** n/a  
**Disposition Approved on Date:**  
**Disposition Authority:** n/a  
**Disposition Case Number:** n/a  
**Disposition Comment:**  
**Disposition Date:** 01 JAN 1960  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1975STATE090822  
**Document Source:** ADS  
**Document Unique ID:** 00  
**Drafter:** OES/SCI/SEP:WAROOT:GEM  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** n/a  
**Film Number:** D750140-0099  
**From:** STATE  
**Handling Restrictions:** n/a  
**Image Path:**  
**ISecure:** 1  
**Legacy Key:** link1975/newtext/t197504103/baaaahmh.tel  
**Line Count:** 262  
**Locator:** TEXT ON-LINE, TEXT ON MICROFILM  
**Office:** ORIGIN OES  
**Original Classification:** UNCLASSIFIED  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 5  
**Previous Channel Indicators:**  
**Previous Classification:** n/a  
**Previous Handling Restrictions:** n/a  
**Reference:** n/a  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** ShawDG  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 02 JUL 2003  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <02 JUL 2003 by SilvaL0>; APPROVED <02 FEB 2004 by ShawDG>  
**Review Markings:**

Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
05 JUL 2006

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** <DBA CORRECTED> sph 971124  
**Subject:** n/a  
**TAGS:** TGEN, UR, US, TGEN  
**To:** MOSCOW  
**Type:** TE  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006